

AMENDED IN SENATE MAY 16, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 361

Introduced by Senator Padilla

February 20, 2013

An act to amend Sections ~~2403, 3017, 3017~~ and 14310 of, and to add Sections ~~2169, 2228, 2169~~ and 12106.5 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 361, as amended, Padilla. Elections: voter registration.

~~(1) Existing~~

Existing law specifies various duties of the Secretary of State with regard to the electoral process.

This bill would place additional requirements on the Secretary of State to provide the capability for a voter to check the status of the voter's registration, find the location of the voter's polling place, check the status of a vote by mail ballot, and check the status of a voter's provisional ballot on the Secretary of State's Internet Web site, as specified.

~~(2) Existing law provides for voter residency confirmation procedures based on change-of-address information, as specified, in cases where the voter has moved to a new address within the same county or to another county.~~

~~This bill would, for the purpose of maintaining accurate voter registration records, authorize the Secretary of State to enter into agreements with other states to share voter information or data pertaining to voters who have permanently moved to other states.~~

~~(3) Existing law, the federal National Voter Registration Act of 1993, requires each state to establish procedures to register voters by application in person at certain federal, state, or nongovernmental agencies designated by state law as voter registration agencies. Existing law requires voter registration agencies, with each application for service or assistance and with each recertification, renewal, or change of address form relating to the service or assistance, to perform specified tasks related to voter registration.~~

~~This bill would require a voter registration agency to provide the Secretary of State with information or data pertaining to an applicant's address for the purpose of maintaining accurate voter registration records. By requiring local agencies to perform additional duties, this bill would impose a state-mandated local program.~~

~~(4) This~~

~~This bill would become operative when the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002.~~

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes-no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2169 is added to the Elections Code,
- 2 following Section 2168, to read:
- 3 2169. The Secretary of State shall provide on his or her Internet
- 4 Web site the capability for a voter to check the status of the voter's
- 5 registration.
- 6 SEC. 2. Section 2228 is added to the Elections Code, to read:
- 7 2228. Notwithstanding any other law and for the purpose of
- 8 maintaining accurate voter registration records, the Secretary of
- 9 State may enter into agreements with other states to share
- 10 information or data pertaining to voters who have permanently
- 11 moved to other states as described in Section 2022 or 2023.

1 ~~SEC. 3.— Section 2403 of the Elections Code is amended to read:~~

2 ~~2403. (a) A voter registration agency shall comply with the~~
3 ~~applicable duties and responsibilities of a voter registration agency~~
4 ~~set forth in the federal National Voter Registration Act of 1993~~
5 ~~(42 U.S.C. Sec. 1973gg et seq.).~~

6 ~~(b) A voter registration agency, with each application for service~~
7 ~~or assistance and with each recertification, renewal, or change of~~
8 ~~address form relating to the service or assistance, and in accordance~~
9 ~~with the federal National Voter Registration Act of 1993 (42 U.S.C.~~
10 ~~Sec. 1973gg et seq.), shall do all of the following:~~

11 ~~(1) Provide the applicant with all of the following:~~

12 ~~(A)~~

13 ~~—A voter preference form.~~

14 ~~(B)~~

15 ~~—A voter registration card, unless the applicant, in writing,~~
16 ~~declines to register to vote.~~

17 ~~(C)~~

18 ~~—Assistance in completing the voter registration card, unless the~~
19 ~~applicant refuses the assistance.~~

20 ~~(2) Notwithstanding any other law, provide the Secretary of~~
21 ~~State with information or data pertaining to the applicant's address~~
22 ~~for the purpose of maintaining accurate voter registration records.~~

23 ~~(e) For purposes of paragraph (1) of subdivision (b), an~~
24 ~~applicant's failure to respond to the question of whether he or she~~
25 ~~would like to register to vote does not constitute a declination to~~
26 ~~register.~~

27 ~~SEC. 4.~~

28 ~~SEC. 2.~~ Section 3017 of the Elections Code is amended to read:

29 3017. (a) All vote by mail ballots cast under this division shall
30 be voted on or before the day of the election. After marking the
31 ballot, the vote by mail voter shall do either of the following: (1)
32 return the ballot by mail or in person to the elections official from
33 whom it came or (2) return the ballot in person to a member of a
34 precinct board at a polling place within the jurisdiction. However,
35 a vote by mail voter who is unable to return the ballot may
36 designate his or her spouse, child, parent, grandparent, grandchild,
37 brother, sister, or a person residing in the same household as the
38 vote by mail voter to return the ballot to the elections official from
39 whom it came or to the precinct board at a polling place within
40 the jurisdiction. The ballot must, however, be received by either

1 the elections official from whom it came or the precinct board
2 before the close of the polls on election day.

3 (b) The elections official shall establish procedures to ensure
4 the secrecy of a ballot returned to a precinct polling place and the
5 security, confidentiality, and integrity of any personal information
6 collected, stored, or otherwise used pursuant to this section.

7 (c) (1) On or before March 1, 2008, the elections official shall
8 establish procedures to track and confirm the receipt of voted vote
9 by mail ballots and to make this information available by means
10 of online access using the county's elections division Internet Web
11 site. If the county does not have an elections division Internet Web
12 site, the elections official shall establish a toll-free telephone
13 number that may be used to confirm the date a voted vote by mail
14 ballot was received.

15 (2) The Secretary of State shall provide on his or her Internet
16 Web site the capability for a vote by mail voter to check the status
17 of the voter's vote by mail ballot to discover whether the ballot
18 was counted and, if not, the reason why it was not counted.

19 (d) The provisions of this section are mandatory, not directory,
20 and a ballot shall not be counted if it is not delivered in compliance
21 with this section.

22 (e) Notwithstanding subdivision (a), a vote by mail voter's ballot
23 shall not be returned by a paid or volunteer worker of a general
24 purpose committee, controlled committee, independent expenditure
25 committee, political party, candidate's campaign committee, or
26 any other group or organization at whose behest the individual
27 designated to return the ballot is performing a service. However,
28 this subdivision does not apply to a candidate or a candidate's
29 spouse.

30 ~~SEC. 5.~~

31 *SEC. 3.* Section 12106.5 is added to the Elections Code, to
32 read:

33 12106.5. The Secretary of State shall provide on his or her
34 Internet Web site the capability for a voter to find the location of
35 his or her polling place.

36 ~~SEC. 6.~~

37 *SEC. 4.* Section 14310 of the Elections Code, as amended by
38 Section 1 of Chapter 611 of the Statutes of 2009, is amended to
39 read:

1 14310. (a) At all elections, a voter claiming to be properly
2 registered, but whose qualification or entitlement to vote cannot
3 be immediately established upon examination of the index of
4 registration for the precinct or upon examination of the records on
5 file with the county elections official, shall be entitled to vote a
6 provisional ballot as follows:

7 (1) An elections official shall advise the voter of the voter's
8 right to cast a provisional ballot.

9 (2) The voter shall be provided a provisional ballot, written
10 instructions regarding the process and procedures for casting the
11 provisional ballot, and a written affirmation regarding the voter's
12 registration and eligibility to vote. The written instructions shall
13 include the information set forth in subdivisions (c) and (d).

14 (3) The voter shall be required to execute, in the presence of an
15 elections official, the written affirmation stating that the voter is
16 eligible to vote and registered in the county where the voter desires
17 to vote.

18 (b) Once voted, the voter's ballot shall be sealed in a provisional
19 ballot envelope, and the ballot in its envelope shall be deposited
20 in the ballot box. All provisional ballots voted shall remain sealed
21 in their envelopes for return to the elections official in accordance
22 with the elections official's instructions. The provisional ballot
23 envelopes specified in this subdivision shall be a color different
24 than the color of, but printed substantially similar to, the envelopes
25 used for vote by mail ballots, and shall be completed in the same
26 manner as vote by mail envelopes.

27 (c) (1) During the official canvass, the elections official shall
28 examine the records with respect to all provisional ballots cast.
29 Using the procedures that apply to the comparison of signatures
30 on vote by mail ballots, the elections official shall compare the
31 signature on each provisional ballot envelope with the signature
32 on the voter's affidavit of registration. If the signatures do not
33 compare or the provisional ballot envelope is not signed, the ballot
34 shall be rejected. A variation of the signature caused by the
35 substitution of initials for the first or middle name, or both, shall
36 not invalidate the ballot.

37 (2) Provisional ballots shall not be included in any semiofficial
38 or official canvass, except upon: (A) the elections official's
39 establishing prior to the completion of the official canvass, from
40 the records in his or her office, the claimant's right to vote; or (B)

1 the order of a superior court in the county of the voter's residence.
2 A voter may seek the court order specified in this paragraph
3 regarding his or her own ballot at any time prior to completion of
4 the official canvass. Any judicial action or appeal shall have
5 priority over all other civil matters. No fee shall be charged to the
6 claimant by the clerk of the court for services rendered in an action
7 under this section.

8 (3) The provisional ballot of a voter who is otherwise entitled
9 to vote shall not be rejected because the voter did not cast his or
10 her ballot in the precinct to which he or she was assigned by the
11 elections official.

12 (A) If the ballot cast by the voter contains the same candidates
13 and measures on which the voter would have been entitled to vote
14 in his or her assigned precinct, the elections official shall count
15 the votes for the entire ballot.

16 (B) If the ballot cast by the voter contains candidates or
17 measures on which the voter would not have been entitled to vote
18 in his or her assigned precinct, the elections official shall count
19 only the votes for the candidates and measures on which the voter
20 was entitled to vote in his or her assigned precinct.

21 (d) (1) The Secretary of State shall establish a free access
22 system on his or her Internet Web site that allows any voter who
23 casts a provisional ballot to discover whether the voter's
24 provisional ballot was counted and, if not, the reason why it was
25 not counted.

26 (2) The requirements of paragraph (1) shall not be satisfied by
27 providing hyperlinks, or otherwise referring voters, to the free
28 access systems established by county elections officials.

29 (e) The Secretary of State may adopt appropriate regulations
30 for purposes of ensuring the uniform application of this section.

31 (f) This section shall apply to any vote by mail voter described
32 by Section 3015 who is unable to surrender his or her unvoted vote
33 by mail voter's ballot.

34 (g) Any existing supply of envelopes marked "special challenged
35 ballot" may be used until the supply is exhausted.

36 ~~SEC. 7.~~

37 *SEC. 5.* Section 14310 of the Elections Code, as amended by
38 Section 3 of Chapter 497 of the Statutes of 2012, is amended to
39 read:

1 14310. (a) At all elections, a voter claiming to be properly
2 registered, but whose qualification or entitlement to vote cannot
3 be immediately established upon examination of the index of
4 registration for the precinct or upon examination of the records on
5 file with the county elections official, shall be entitled to vote a
6 provisional ballot as follows:

7 (1) An elections official shall advise the voter of the voter's
8 right to cast a provisional ballot.

9 (2) The voter shall be provided a provisional ballot, written
10 instructions regarding the process and procedures for casting the
11 ballot, and a written affirmation regarding the voter's registration
12 and eligibility to vote. The written instructions shall include the
13 information set forth in subdivisions (c) and (d).

14 (3) The voter shall be required to execute, in the presence of an
15 elections official, the written affirmation stating that the voter is
16 eligible to vote and registered in the county where the voter desires
17 to vote.

18 (b) Once voted, the voter's ballot shall be sealed in a provisional
19 ballot envelope, and the ballot in its envelope shall be deposited
20 in the ballot box. All provisional ballots voted shall remain sealed
21 in their envelopes for return to the elections official in accordance
22 with the elections official's instructions. The provisional ballot
23 envelopes specified in this subdivision shall be of a color different
24 than the color of, but printed substantially similar to, the envelopes
25 used for vote by mail ballots, and shall be completed in the same
26 manner as vote by mail envelopes.

27 (c) (1) During the official canvass, the elections official shall
28 examine the records with respect to all provisional ballots cast.
29 Using the procedures that apply to the comparison of signatures
30 on vote by mail ballots, the elections official shall compare the
31 signature on each provisional ballot envelope with the signature
32 on the voter's affidavit of registration. If the signatures do not
33 compare or the provisional ballot envelope is not signed, the ballot
34 shall be rejected. A variation of the signature caused by the
35 substitution of initials for the first or middle name, or both, shall
36 not invalidate the ballot.

37 (2) (A) Provisional ballots shall not be included in any
38 semiofficial or official canvass, except under one or more of the
39 following conditions:

1 (i) The elections official establishes prior to the completion of
2 the official canvass, from the records in his or her office, the
3 claimant's right to vote.

4 (ii) The provisional ballot has been cast and included in the
5 canvass pursuant to Article 4.5 (commencing with Section 2170)
6 of Chapter 2 of Division 2.

7 (iii) Upon the order of a superior court in the county of the
8 voter's residence.

9 (B) A voter may seek the court order specified in this paragraph
10 regarding his or her own ballot at any time prior to completion of
11 the official canvass. Any judicial action or appeal shall have
12 priority over all other civil matters. No fee shall be charged to the
13 claimant by the clerk of the court for services rendered in an action
14 under this section.

15 (3) The provisional ballot of a voter who is otherwise entitled
16 to vote shall not be rejected because the voter did not cast his or
17 her ballot in the precinct to which he or she was assigned by the
18 elections official.

19 (A) If the ballot cast by the voter contains the same candidates
20 and measures on which the voter would have been entitled to vote
21 in his or her assigned precinct, the elections official shall count
22 the votes for the entire ballot.

23 (B) If the ballot cast by the voter contains candidates or
24 measures on which the voter would not have been entitled to vote
25 in his or her assigned precinct, the elections official shall count
26 only the votes for the candidates and measures on which the voter
27 was entitled to vote in his or her assigned precinct.

28 (d) (1) The Secretary of State shall establish a free access
29 system on his or her Internet Web site that allows any voter who
30 casts a provisional ballot to discover whether the voter's
31 provisional ballot was counted and, if not, the reason why it was
32 not counted.

33 (2) The requirements of paragraph (1) shall not be satisfied by
34 providing hyperlinks, or otherwise referring voters, to the free
35 access systems established by county elections officials.

36 (e) The Secretary of State may adopt appropriate regulations
37 for purposes of ensuring the uniform application of this section.

38 (f) This section shall apply to any vote by mail voter described
39 by Section 3015 who is unable to surrender his or her unvoted vote
40 by mail voter's ballot.

1 (g) Any existing supply of envelopes marked “special challenged
2 ballot” may be used until the supply is exhausted.

3 ~~SEC. 8. If the Commission on State Mandates determines that~~
4 ~~this act contains costs mandated by the state, reimbursement to~~
5 ~~local agencies and school districts for those costs shall be made~~
6 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
7 ~~4 of Title 2 of the Government Code.~~

8 ~~SEC. 9.~~

9 *SEC. 6.* Sections 1 to 8, inclusive, of this bill shall become
10 operative only if the Secretary of State certifies that the state has
11 a statewide voter registration database that complies with the
12 requirements of the federal Help America Vote Act of 2002 (42
13 U.S.C. Sec. 15301 et seq.).